



General Assembly

January Session, 2013

## ***Amendment***

LCO No. 7228

**\*HB0666207228HD0\***

Offered by:

REP. FOX, 146<sup>th</sup> Dist.

SEN. COLEMAN, 2<sup>nd</sup> Dist.

REP. RITTER M., 1<sup>st</sup> Dist.

To: House Bill No. 6662

File No. 728

Cal. No. 507

***"AN ACT CONCERNING THE RECOUPMENT OF MONEYS OWED  
TO A UNIT OWNERS' ASSOCIATION DUE TO NONPAYMENT OF  
ASSESSMENTS."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Subsection (b) of section 47-258 of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective from*  
5 *passage and applicable to all actions pending on and actions filed on or after*  
6 *said date*):

7 (b) [A] Notwithstanding any provision in the declaration or bylaws  
8 to the contrary, a lien under this section is prior to all other liens and  
9 encumbrances on a unit except (1) liens and encumbrances recorded  
10 before the recordation of the declaration and, in a cooperative, liens  
11 and encumbrances which the association creates, assumes or takes  
12 subject to, (2) a first or second security interest on the unit recorded

13 before the date on which the assessment sought to be enforced became  
14 delinquent, or, in a cooperative, a first or second security interest  
15 encumbering only the unit owner's interest and perfected before the  
16 date on which the assessment sought to be enforced became  
17 delinquent, and (3) liens for real property taxes and other  
18 governmental assessments or charges against the unit or cooperative.  
19 [The] In all actions brought to foreclose a lien under this section or a  
20 security interest described in subdivision (2) of this subsection, the lien  
21 is also prior to all security interests described in subdivision (2) of this  
22 subsection to the extent of (A) an amount equal to the common  
23 expense assessments based on the periodic budget adopted by the  
24 association pursuant to subsection (a) of section 47-257 which would  
25 have become due in the absence of acceleration during the [six] nine  
26 months immediately preceding institution of an action to enforce  
27 either the association's lien or a security interest described in  
28 subdivision (2) of this subsection, excluding any late fees, interest or  
29 finances which may be assessed by the association during the nine-month  
30 period, and (B) the association's costs and reasonable attorney's fees in  
31 enforcing its lien. A lien for any assessment or fine specified in  
32 subsection (a) of this section shall have the priority provided for in this  
33 subsection in an amount not to exceed the amount specified in  
34 subparagraph (A) of this subsection. This subsection does not affect the  
35 priority of mechanics' or materialmen's liens or the priority of liens for  
36 other assessments made by the association.

37 Sec. 2. Subsection (m) of section 47-258 of the general statutes is  
38 repealed and the following is substituted in lieu thereof (*Effective*  
39 *October 1, 2013, and applicable to all actions filed on or after said date*):

40 (m) (1) An association may not commence an action to foreclose a  
41 lien on a unit under this section unless: [(1)] (A) The unit owner, at the  
42 time the action is commenced, owes a sum equal to at least two  
43 months of common expense assessments based on the periodic budget  
44 last adopted by the association pursuant to subsection (a) of section 47-  
45 257; [(2)] (B) the association has made a demand for payment in a

46 record and has simultaneously provided a copy of such record to the  
47 holder of a security interest described in subdivision (2) of subsection  
48 (b) of this section; and [(3)] (C) the executive board has either voted to  
49 commence a foreclosure action specifically against that unit or has  
50 adopted a standard policy that provides for foreclosure against that  
51 unit.

52 (2) Not less than sixty days prior to commencing an action to  
53 foreclose a lien on a unit under this section, the association shall  
54 provide a written notice by first class mail to the holders of all security  
55 interests described in subdivision (2) of subsection (b) of this section,  
56 which shall set forth the following: (A) The amount of unpaid common  
57 expense assessments owed to the association as of the date of the  
58 notice; (B) the amount of any attorney's fees and costs incurred by the  
59 association in the enforcement of its lien as of the date of the notice; (C)  
60 a statement of the association's intention to foreclose its lien if the  
61 amounts set forth in subparagraphs (A) and (B) of this subdivision are  
62 not paid to the association not later than sixty days after the date on  
63 which the notice is provided; (D) the association's contact information,  
64 including, but not limited to, (i) the name of the individual acting on  
65 behalf of the association with respect to the matter, and (ii) the  
66 association's mailing address, telephone number and electronic mail  
67 address, if any; and (E) instructions concerning the acceptable means  
68 of making payment on the amounts owing to the association as set  
69 forth in subparagraphs (A) and (B) of this subdivision. Any notice  
70 required to be given by the association under this subsection shall be  
71 effective when sent.

72 (3) When providing the written notice required by subdivision (2) of  
73 this subsection, the association may rely on the last-recorded security  
74 interest of record in identifying the name and mailing address of the  
75 holder of that interest, unless the holder of the security interest is the  
76 plaintiff in an action pending in the Superior Court to enforce that  
77 security interest, in which case the association shall provide the written  
78 notice to the attorney appearing on behalf of the holder of the security

79 interest in such action.

80 (4) The failure of the association to provide the written notice  
 81 required by subdivisions (2) and (3) of this subsection prior to  
 82 commencing an action to foreclose its lien shall not affect the priority  
 83 of its lien for an amount equal to nine months common expense  
 84 assessments, but the priority amount in such action shall not include  
 85 any costs or attorney's fees.

86 Sec. 3. Subsection (a) of section 49-2 of the general statutes is  
 87 repealed and the following is substituted in lieu thereof (*Effective*  
 88 *October 1, 2013*):

89 (a) (1) Premiums of insurance, taxes and assessments paid by the  
 90 mortgagee, (2) assessments levied by an association, as defined in section  
 91 47-202, and related attorney's fees and costs that are owed by a  
 92 mortgagor and paid by a mortgagee, and (3) payments of interest or  
 93 installments of principal due on any prior mortgage or lien by any  
 94 subsequent mortgagee or lienor of any property to protect his interest  
 95 therein, are a part of the debt due the mortgagee or lienor."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to all actions pending on and actions filed on or after said date</i>	47-258(b)
Sec. 2	<i>October 1, 2013, and applicable to all actions filed on or after said date</i>	47-258(m)
Sec. 3	<i>October 1, 2013</i>	49-2(a)